

REMARKS

Claims 1-9, 11, 12 and 15 were pending before the Office, of which claims 9, 12 and 15 were withdrawn. By this amendment, claims 1-3, 5-8 and 11 are amended. No claims are cancelled. Claims 16-42 are added. Accordingly, claims 1-9, 11, 12 and 15-42 shall be pending upon entry of this amendment.

No new matter is added by these amendments.

The amendments made herein have been made solely to claim more fully the invention and/or to expedite prosecution of the present application and should in no way be construed as an acquiescence to any of the Examiner's rejections in the Office Action issued in the present application. Applicants reserve the right to pursue the subject matter of the claims as originally filed or similar claims in one or more subsequent applications.

Support for the amendments can be found throughout the originally-filed application, including the specification, examples and claims. In particular reference to the compounds recited in claims 23-42, support for the named compounds can be found as follows: claims 23 and 33 (Example 44); claims 24 and 34 (Example 74); claims 25 and 35 (Example 80); claims 26 and 36 (Example 42); claims 27 and 37 (Example 25); claims 28 and 38 (Example 38); claims 29 and 39 (Example 58); claims 30 and 40 (Example 69); claims 31 and 41 (Example 93); and claims 32 and 42 (Example 64).

Allowable subject matter

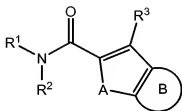
Applicants wish to thank the Examiner for determining that claims 6-8 are patentable over the cited art. Applicants wish to point out that while formula Ia of claim 6 is a species under the general formula I of claim 1, Applicants have amended claim 6 to be written in

independent form rather than to be dependent from claim 1. Claims 7 and 8 have been amended to correctly identify dependency to claim 6, rather than to claim 1 as previously indicated. Claims 7 and 8 are required to depend from claim 6 because of their reference to element Z of formula Ia. Applicants further wish to point out that amended claim 11 and new claims 16-22 ultimately depend from allowed claim 6 and thus, are also believed to be allowable.

The rejection under 35 USC §102(a) is overcome

The Examiner rejects claims 1-5 and 11 under 35 USC §102(a) as allegedly being anticipated by WO 02/100857 to Wishka et al. ("WISHKA"). More in particular, the Office Action contends that the claims of the present application are anticipated by the compounds shown in Example 2, Example 7 and Example 18 where, in claim 1, B is a pyridyl ring, R³ is hydrogen and A is S or O. Applicants disagree with the rejection and traverse as follows.

The present invention, as currently reflected in claim 1, is directed to a compound of the formula (I):



in which

R¹ represents 1-azabicyclo[2.2.2]oct-3-yl,

R² represents hydrogen or C₁-C₆-alkyl,

R³ represents hydrogen, halogen or C₁-C₆-alkyl,

A represents oxygen or sulfur,

and

the ring B represents benzo, pyrimido, pyrimidazo or pyridazino which is substituted by a radical selected from the group consisting of halogen, C₁-C₆-alkanoyl, carbamoyl, cyano, trifluoromethyl, trifluoromethoxy, nitro, amino, C₁-C₆-acylamino, C₁-C₆-alkyl, C₁-C₆-alkoxy, C₁-C₆-alkylthio, C₁-C₆-alkylamino, heteroarylcarbonylamino, arylcarbonylamino, C₁-C₆-alkylsulfonyl-amino, di(C₁-C₄-alkylsulfonyl)amino, arylsulfonylamino, di(arylsulfonyl)amino, C₃-C₆-cycloalkylcarbonylmethyl, 1,3-dioxo-propane-1,3-diyl, amino(hydroxyimino)methyl and benzo, or a salt, a solvate or a solvate of a salt thereof. Applicants have amended claim 1 so that ring B no longer includes pyrido.

Applicants respectfully wish to note that the standard for anticipation is explained in M.P.E.P § 2131, which states that “[a] claim is anticipated *only if each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) (emphasis added). As presently amended, claim 1 is *not* anticipated by WISHKA because WISHKA fails to teach each and every element. And, since each of the presently rejected claims ultimately dependent on claim 1, the rejected dependent claims are also not anticipated by WISHKA.

Turning to the reference, the compounds cited from WISHKA, i.e., Examples 2, 7 and 18, each include a pyridyl ring at a position corresponding to ring B of claim 1. As currently presented, however, the claims have been amended such that they exclude a pyridyl moiety as ring B and instead require ring B to be a benzo, pyrimido, pyrimidazo or pyridazino. Thus, unlike the corresponding structures in the WISHKA compounds, ring B of the claims is *not*

pyridyl. Accordingly, the cited compounds of WISHKA do not anticipate claim 1 as presently amended because the cited WISHKA compounds do not contain a benzo, pyrimido, pyrimidazo or pyridazino ring as required by ring B of claim 1. Because WISHKA's cited compounds do not teach each and every element of the claims, the cited compounds cannot anticipate the claims.

Therefore, at least for the above reasons, WISHKA does not teach, either expressly or inherently, each and every element of the presently claimed invention. Applicants request reconsideration and withdrawal of the Section 102 rejection.

CONCLUSION

In view of the remarks herein, Applicants respectfully request reconsideration and withdrawal of all of the rejections as Applicants believe the application to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are respectfully requested. Please charge any required fee or credit any overpayment to Deposit Account No. 04-1105.

Dated: July 7, 2008

Respectfully submitted,

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